

**CHAPTER 09****CONDITIONAL USE PERMITS**

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**Section 09.010. Purpose.***(Amended 01/13/15)*

An application for a conditional use permit may be granted by the Commission, subject to this provisions of this Code, for any of the uses for which a Conditional Use permit is required, as identified in Tables 05-030-A and 05-030-B.

The purpose of a Conditional Use permit is to allow the proper integration into the City of certain uses which may have a detrimental effect within the City, and which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged, located, conditioned, or conducted on the site in a particular manner.

**Section 09.020. Application Requirements.***(Amended 01/13/15)*

A. Application. All requests for a Conditional Use permit shall be made on the application form provided by the City, and shall detail the nature of the Conditional Use request.

B. Documentation. Along with its application, the applicant shall also provide any documentation in support of the proposed Conditional Use, including the information contemplated by Chapter 11 of this Code for the submission and review of a plat or site plan, whichever is applicable.

C. Submission. Completed applications, along with supporting documentation, shall be submitted to the Planning Department. The Planning Department shall ensure that the application and supporting documentation are complete before forwarding the application to the Reviewing Departments. The Reviewing Departments shall review the application and corresponding supporting documentation, and shall

provide reports, comments, and recommendations to the Commission. If the Reviewing Departments determine that more information is needed from the applicant before the Reviewing Departments can provide reports, comments, and recommendations to the Commission, the applicant shall be notified to provide any such required additional information.

D. Filing Fee. An application for a Conditional Use permit shall be accompanied by a filing fee in an amount set forth in the City's Consolidated Fee Schedule.

**Section 09.030. Public Hearing Required.***(Amended 01/13/15)*

All applications for a Conditional Use permit shall be the subject of a public hearing, and shall be subject to the same notice requirements as a zone district amendment, as identified in Section 04-050 and Section 03-080 of this Code. The public hearing shall take place only after the Reviewing Departments have reviewed the application and supporting documents, and have provided all reports, comments, and recommendations to the Commission. At all times, including at the public hearing, the applicant has the burden of proof, by a preponderance of the evidence, to convince the Commission that the requirements of this Chapter 09 have been satisfied with respect to the applicant's proposed Conditional Use.

**Section 09.040. Granting/Denial of Application.***(Amended 01/13/15)*

After the public hearing contemplated by Section 09.030., the Commission is authorized to render a final decision on the granting or denial of a conditional use permit to the applicant, subject to the provisions of this Chapter 09. The Commission may grant, conditionally grant, or deny an application for a conditional use permit. Alternatively, the Commission may require the applicant to return at a continued public hearing to provide additional information before the Commission renders its final decision.

**Section 09.050. Standard for Granting a Conditional Use.***(Amended 07/11/06; 01/13/15)*

A. A Conditional Use permit shall be granted or conditionally granted by the Commission, unless:

1. The proposed Conditional Use will be detrimental or injurious to the health, safety, or general welfare of persons or properties within the vicinity of the proposed

Conditional Use; and

2. The reasonably anticipated detrimental or injurious effects of the proposed Conditional Use cannot be mitigated by the imposition of reasonable conditions upon said proposed Conditional Use.

B. A proposed Conditional Use shall be considered as detrimental or injurious to the health, safety, or general welfare of persons or properties within the vicinity of the proposed Conditional Use if:

1. The proposed Conditional Use will cause unreasonable risks to the safety of persons or properties because of vehicular traffic, parking, or large gatherings of people;

2. The proposed Conditional Use will unreasonably interfere with the lawful use of properties within the vicinity of the proposed Conditional Use;

3. The proposed Conditional Use will create an additional need for essential City or public services (e.g., utilities, law enforcement, fire prevention, etc.) which cannot be met without unreasonable efforts or expenditures of City or public resources;

4. The proposed Conditional Use will be noncompliant with Chapters 12 and 13 of this Code.

5. The proposed Conditional Use will otherwise present an unreasonable detriment or injury to the health, safety, or general welfare of persons or properties in the vicinity of the proposed Conditional Use; or

6. The proposed Conditional Use will not be in harmony with the General Plan.

C. Real Estate Values. A change in the market value of real estate as a result of the proposed Conditional Use shall not constitute a basis for denying a proposed Conditional Use.

### **Section 09.060. Conditions.**

*(Amended 01/13/15)*

A. Conditions. In granting a Conditional Use permit, the Commission may impose such requirements and conditions which the Commission, in its sole

discretion, deems necessary for the protection of persons and properties in the vicinity of the proposed Conditional Use, as well as the preservation of the integrity of the General Plan. Said requirements and conditions may include (but are not limited to) location, construction, size, maintenance, operation, site planning, traffic control and parking, relocations, dedications, installation and upgrading of public services and roads, and time limits for the proposed Conditional Use, in addition to the following non-exclusive list of potential requirements and conditions:

1. That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

2. That all buildings or other structures are architecturally attractive and add to the quality of the area.

3. Provision of parking facilities, including vehicular ingress and egress and the surfacing of parking areas and driveways to specified standards.

4. Street and highway dedication and improvements, including sidewalks, curbs and gutters.

5. Water supply and fire protection.

6. The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electro-magnetic disturbances and radiation.

7. The regulation of operating hours for activities affecting normal neighborhood schedules and functions.

8. Regulation of signs.

9. Provisions for a guarantee, bond or other surety that the proposed conditional use will be maintained and operated in compliance with all approval conditions and requirements.

10. Such other conditions determined necessary by the Commission to allow the establishment and operation of the proposed

conditional use in an orderly and efficient manner and in compliance with all elements of the General Plan, and the intent and purpose of this Code.

of this Chapter 09 by any lawful means, including (but not limited to) obtaining injunctions, and instigating civil and criminal actions against the violating party.

The Commission may require guarantees, bonds, or other assurances that such requirements and conditions are being, or will be, satisfied, including (but not limited to) requiring an applicant to prepare and record covenants running with the land and to be binding upon the applicant and its successors in interest.

B. Conditional Use Permit Required. No permits, certificates, or licenses shall be issued with respect to the property upon which the proposed Conditional Use will exist until a Conditional Use permit has been granted by the Commission.

**Section 09.070. Noncompliance with Conditional Use Permit.**

*(New 01/13/15)*

A. Public Hearing. If there is cause to believe that grounds for revocation or modification of a Conditional Use permit exist, the Commission shall hold a public hearing on the question of modification or revocation of a Conditional Use permit granted pursuant to the provisions of this Chapter 09. Notice of said hearing shall be the same as would be required for consideration of a Conditional Use application.

B. Revocation. A Conditional Use permit may be revoked if the Commission finds, by a preponderance of the evidence, that one or more of the following exist:

1. The Conditional Use permit was obtained in a fraudulent manner.
2. The use for which the Conditional Use permit was granted has now ceased for at least six (6) consecutive calendar months.
3. One or more of the conditions of the Conditional Use permit have not been substantially met.

C. Modification. A Conditional Use permit granted may be modified by the Commission without the consent of the property owner or operator, if the Commission finds, by a preponderance of the evidence, that the Conditional Use constitutes or is creating a nuisance.

D. Enforcement. The City may enforce the provisions